

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	8:13CR105
	)	
	)	
vs.	)	
	)	
	)	
TIMOTHY DEFOGGI,	)	
a/k/a fuckchrist	)	
a/k/a ptasseater	)	
Defendant.	)	
	)	

**GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION FOR ADDITIONAL  
DISCOVERY (DKT. NO. 104)**

Prepared and Submitted by:

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The United States of America, through undersigned counsel, hereby files this opposition to the Defendant's motion for additional discovery (Dkt. No. 104).

On March 5, 2014, the defendant, through counsel, requested via e-mail that the United States provide copies of or make available for inspection the following items:

1. Electronic copy of the four USB thumb drives seized from Defendant's residence on April 9, 2013, with forensic analysis and evaluation and report of the existence of malware, as follows:
  - a. 4 GB thumb drive, silver;
  - b. 8 GB thumb drive, black;
  - c. 2 GB thumb drive, black; and
  - d. 1 GB thumb drive, black;
2. Five CDs labeled Dale's Porn;
3. Dell laptop computer;
4. Identification of computers, laptops and/or tables that utilized user access restrictions;
5. Photocopy of the U.S. Government's Identification cards seized on an AO 93, FD 886 of FD597;
6. Scif access ID badge bearing photo and Sci access colors; and
7. Copy of all supplemental items as identified on form AO 93.

On March 6, 2014, the government e-mailed the following response to defendant's counsel:

I will address your requests in turn using the same numbers you did. Attached for your reference are the residential search warrant return and the forensic examination report of your client's digital media, both of which have previously been provided in discovery.

1. Law enforcement seized two thumb drives from your client's residence on April 9, 2013, designated as Q-HQ-004 and 005 on the forensic report. Both were 2GB in size. The report describes the examination of those items. Copies of the data on each of those thumb drives will be made reasonably available for your review and inspection, or that of your forensic expert, at the FBI office in Omaha, consistent with the requirements of 18 U.S.C. 3509(m). We are not aware of the seizure of the other thumb drives referenced in your e-mail during the April 9, 2013, search of your client's residence.

2, 3, 5 and 6: We are not aware of the seizure of any such items by law enforcement during the April 9, 2013, search of your client's residence. If you have some evidence or documentation showing that those items were actually seized or are in the custody of law enforcement, please let us know.

4. Please see the forensic report, which documents the examination of digital evidence seized from your client's home. That digital evidence and the accompanying case reports referenced in the forensic report will be made reasonably available for your review and inspection, or that of your forensic expert, at the FBI office in Omaha, consistent with the requirements of 18 U.S.C. 3509(m).

7. We will make these documents available for your inspection any [sic] copying. Please contact SA Jeff Tarpinian (cc'd) to arrange for that.

The defendant then filed the instant motion regarding the same items referenced in the March 5, 2014, e-mail. On account of the government's response to the defendant's request, the government requests that the defendant's motion be denied, without prejudice, as moot.

Respectfully submitted,

UNITED STATES OF AMERICA,  
Plaintiff

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